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Attorneys for Plaintiffs  
 Ann Otsuka, Janis Keefe, Corinne Phipps and Justin Kiser

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO DIVISION

ANN OTSUKA, an individual; JANIS KEEFE, ) Case No.: C-07-02780BZ  
 an individual; CORINNE PHIPPS, an )  
 individual; and JUSTIN KISER, an individual; ) **DECLARATION OF PATRICK R.**  
 individually and on behalf of all others similarly ) **KITCHIN IN SUPPORT OF MOTION TO**  
 situated, ) **BE RELIEVED AS COUNSEL**

Plaintiffs,  
 vs.

POLO RALPH LAUREN CORPORATION; a )  
 Delaware Corporation; POLO RETAIL, LLC., a ) **DATE: September 21, 2007**  
 Delaware Corporation; POLO RALPH ) **TIME: 9:00 a.m.**  
 LAUREN CORPORATION, a Delaware ) **JUDGE: Hon. Susan Illston**  
 Corporation, doing business in California as ) **LOCATION: Courtroom 10, 19<sup>th</sup> Floor**  
 POLO RETAIL CORP; FASHIONS OUTLET ) **450 Golden Gate Avenue**  
 OF AMERICA, INC., a Delaware Corporation ) **San Francisco, California 94102**  
 and DOES 1-500, inclusive )

Defendants.

1 I, Patrick R. Kitchen, declare:

- 2 1. I am an attorney at law licensed to practice before the Courts of the State of California,  
3 and am admitted to this Federal District Court, and serve as counsel to the plaintiffs in  
4 this case, and make this declaration based on personal knowledge.
- 5 2. Over the past seven months, I have attempted on numerous occasions to reach Ann  
6 Otsuka to discuss the status of this case.
- 7 3. Between approximately December 10, 2006, and April 21, 2007, I left around 6-10  
8 telephone messages on Ms. Otsuka's home telephone answering machine ((650) 940-  
9 1780) asking her to contact me. The answering machine identifies Ms. Otsuka and I  
10 recognize her voice. I have not received any response from Ms. Otsuka to my  
11 numerous voicemail messages. I specifically made these additional attempts to contact  
12 Ms. Otsuka.
- 13 a. On December 1, 2006, I sent a letter to Ms. Otsuka by Federal Express to  
14 her home, 230 Bush Street, Mountain View, CA 94041, asking her to  
15 contact my office as soon as possible. I did not receive any response to my  
16 letter to Ms. Otsuka.
- 17 b. On December 6, 2006, I sent a letter to Ms. Otsuka by U.S. mail (home  
18 address) asking for her assistance with discovery aimed to her. She did not  
19 respond.
- 20 c. On January 10, 2007, I sent an email to Ms. Otsuka's email account asking  
21 her to contact me immediately. She did not respond to this email.
- 22 d. On January 15, 2007, I sent another email to Ms. Otsuka's email account  
23 asking her to contact me immediately. She did not respond to this email.
- 24 e. On January 11, 2007, I sent a letter to Ms. Otsuka by Federal Express to her  
25 home, asking her to contact my office as soon as possible. I did not receive  
26 any response to my letter to Ms. Otsuka.
- 27 f. On April 13, 2007, I left another telephone message for Ms. Otsuka,  
28 informing her that I would seek to withdraw from representing Ms. Otsuka

1 unless she contacted Daniel Feder or me immediately. On that same date, I  
2 sent a letter by Federal Express to Ms. Otsuka describing the consequences  
3 of the withdrawal of her legal counsel in this case. I informed her we would  
4 seek withdrawal as her counsel, but that we would not seek to dismiss her  
5 claims unless specifically directed by her to do so.

- 6 4. The telephone number I have for Ms. Otsuka is current and working. The voice mail  
7 message identifies "Ann" and I recognize her voice.
- 8 5. On April 23, 2007, I sent Ms. Otsuka a completed Substitution of Attorney-  
9 Civil form (MC-050) asking her to sign the form and return it to my office. I  
10 have not received any response to this request.
- 11 6. On April 24, 2007, prior to the date defendant removed this action to the  
12 Federal District Court, my office served a motion to be relieved as counsel on  
13 Ann Otsuka by Federal Express. That motion hearing was vacated upon the  
14 removal of this case to the Northern District of California.
- 15 7. On July 12, 2007, I re-ran credit and banking headers on Ms. Otsuka on Merlin  
16 Information Services, a subscription database service utilized by office to  
17 conduct skip trace searches. I was unable to identify and verify a more recent  
18 address or telephone number for Ms. Otsuka than the one she provided to me.
- 19 8. The home address of Ms. Otsuka appears current as of July 12, 2007. On that  
20 date, I personally ran credit and banking headers on Ms. Otsuka on Merlin  
21 Information Services, a subscription database service utilized by office to  
22 conduct skip trace searches. I was unable to identify and verify a more recent  
23 address or telephone number for Ms. Otsuka.

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1       9.       On July 20, 2007, my office served copies of all documents and pleadings in  
2               support of this motion on Ann Otsuka by Federal Express at 230 Bush Street,  
3               Mountain View, CA.

4       I declare or affirm under penalty of perjury under the laws of the United States of  
5       America that the foregoing is true and correct and that this declaration was made on July  
6       20, 2007, in San Francisco, California.

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8                               \_\_\_\_\_/s/\_\_\_\_\_  
9                               Patrick R. Kitchen